

## REMARKS

### Claim Rejections 35 U.S.C. § 102

The Examiner has rejected pending Claims 1, 3 9 and 11 under 35 USC §102(b) as being anticipated by Kensey et al. (USPN 5,061,274.) The Examiner states that Kensey discloses each limitation of the claims, including an elongate member 38 and an occlusion member 20 “attached to a specific position on the distal region of the elongate member.” Applicant respectfully disagrees with this interpretation of the Kensey reference for the reasons discussed below.

Specifically, Kensey does not disclose a releasable coupling and attachment, as required by the two independent claims, Claims 1 and 9, between elongate member 38 and occlusion member 20. For example, as shown in Fig. 2, occlusion member 20 is first positioned within delivery member 30 by pulling it into position with filament portion 56. After it is in position, then elongate member 38 is advanced until it is near occlusion member 20 as shown in Fig. 3, but there is no attachment or coupling. As described in the Kensey specification:

As can be seen clearly in FIG. 2 the plug 20 is arranged to be inserted into the tubular member 30 of the instrument 22 as follows: the distally extending filament portion 56 is inserted through the open proximal end of the tubular member 30 and extended therethrough until its free end 60 extends out of the outlet 36 of the tubular member. The distally extending filament portion 56 is then pulled in the distal direction, like shown by arrow 62, whereupon the cord 50 of the closure 20 enters into the open proximal end of the tubular member. This action causes the cord to fold in half to form a leading or apex portion 64 and a pair of trailing, i.e., proximately extending, wing portions 66A and 66B. The distally extending filament portion 56 is then continued to be pulled in the proximal direction, thereby drawing the folded plug 20 down the tubular member 30 until its apex 64 is immediately adjacent the open end 36 of the tubular member 30. When the plug is in this position (shown in FIG. 3) the proximally extending filament portion 58 extends in the proximal direction from the folded cord 50 through the tube 30 and out its open proximal end. The pusher member 38 is then inserted within the tubular member 30. In particular, the free end of the proximally extending filament portion 58 is introduced into the distally located opening in the central passageway 44 of the pusher and threaded down the central passageway until it extends out of the opening at the flange or head 48 of the pusher. *The pusher is then introduced into the proximally located opening in the tubular member and slid down the interior thereof in the distal direction until its 40 free end is located immediately adjacent the*

*wings 66A and 66B of the plug 20.* Kensey, Col. 6, lines 26-58, emphasis added.

Thus, it can be seen from the figures and specification that Kensey discloses no actual attachment between elongate member 38 and occlusion member 20.

In contrast, the occlusion member of Applicant's device is attached by a releasable coupling at the distal end of the elongate member and this is required by the claims. As shown in Figs. 1 and 2, for example, this allows the occlusion member to remain attached when advanced out of delivery member 15 and when withdrawn into puncture 20. Further, the specification describes the detachable connection between the occlusion member and the elongate member in the material beginning at page 8, line 10. To provide greater consistency with Claim 9, Applicant has amended Claim 1 to specifically refer to an attachment.

In short, the Kensey reference fails to disclose any attachment between the occlusion member and the elongate member. As such, it fails to disclose each limitation of the claims. Accordingly, Applicant respectfully submit that independent Claims 1 and 9, as well as dependent Claims 3 and 11, are not anticipated by Kensey and requests that the Examiner withdraw the §102 rejection.

#### **Rejoinder of Claims 5 and 7**

As discussed in the previous responses, Applicant continues to request that method Claims 5 and 7 be rejoined when Claim 1 is found patentable, as they have been amended to share all the structural limitations of this product claim.

#### **Conclusion**

Applicant respectfully submits that entry of the previous amendments and the current amendments place the case in condition for allowance. The Examiner is encouraged to call the undersigned at (415) 705-6377 if there are any outstanding issues or questions which can be

resolved to allow this application to be passed to issue.

Respectfully submitted,  
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